

THE JOURNAL OF FEDERAL AGENCY ACTION

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Environmental Protection Agency Adopts New Enforcement Approach Prioritizing Compliance Assistance and Communication

Matthew Z. Leopold, Andy Emerson, Ashley T.K. Phillips, Alexandra E. Ward, and Maggie P. Pahl*

In this article, the authors examine a memorandum issued recently by the Environmental Protection Agency (EPA) that establishes a “compliance first” focus for all EPA enforcement and compliance assurance staff.

Craig Pritzlaff, Acting Assistant Administrator of the U.S. Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA), transmitted a memorandum (Pritzlaff Memorandum) on December 5, 2025, to OECA directors and deputies, regional administrators, and other EPA regional civil enforcement and compliance offices to announce a “compliance first” enforcement approach, emphasizing efficiency and swift resolution “under the clearest interpretation” of applicable law.

Citing the current administration’s efforts toward “Powering the Great American Comeback,”¹ the Pritzlaff Memorandum emphasizes that the primary focus for all EPA inspections, investigations, enforcement, and compliance assistance must be “achieving and ensuring timely compliance.” The Pritzlaff Memorandum makes clear that it is effective immediately and applies to all civil, judicial, and administrative enforcement activities, including enforcement cases in process.

The “Compliance First” Framework

The Pritzlaff Memorandum lays out the “compliance first” framework, which directs all EPA personnel responsible for enforcement and compliance assurance to prioritize ensuring

compliance and timely resolution of matters. Pritzlaff expressly rejects an enforcement approach that prioritizes finding violations or lengthy investigations, which ultimately delays actual compliance. Instead, the memorandum directs agency personnel to facilitate compliance and increase the understanding of the regulated community.

In particular, the Pritzlaff Memorandum emphasizes:

- Use of compliance assistance tools such as proactive outreach, technical assistance, training for regulated communities, and voluntary compliance through self-compliance and voluntary audits;
- Deference and support to authorized state leads and cooperation with states to ensure consistency, with the promise to provide technical assistance, training and collaborative tools to strengthen this relationship, and foster information exchange;
- Open communication and collaboration between EPA, states, Tribes, and regulated entities to avoid overregulation and duplicative or contradicting enforcement activities;
- Reasoned decision-making for noncompliance determinations and the appropriate means for achieving compliance that is easily understood by regulated entities and other stakeholders;
- Application of the following LEAPS factors to ensure that enforcement and compliance decisions are the clearest interpretation of the *Law*, based on the best *Evidence*, invoking careful *Analysis* of such evidence and considering both *Programmatic* and *Stakeholder* impacts; and
- Taking swift action to limit citizen suit litigation and abusive litigation tactics.

Emphasis on Transparency and Consistency for the Regulated Community

The Pritzlaff Memorandum directs the agency to engage in open communication when interacting with regulated entities through the inspection and enforcement process in a transparent, “no surprises” manner that establishes trust and allows regulated entities to proactively address issues as soon as possible.

Pritzlaff also expressly rejects expansive regulatory interpretations supporting findings of violation, stating that they can create regulatory uncertainty and “erode public confidence.” Instead, findings of violation must be clear, unambiguous, well-tailored, and based on the “best reading” of the relevant law, particularly in light of *Loper Bright*. This is intended to avoid expending significant resources on litigating interpretations that would broaden statutory or regulatory requirements beyond plain meaning.

Notably, the Pritzlaff Memorandum requires immediate elevation of material ambiguities or concerns regarding how EPA has applied the law to a particular case and makes clear that inspectors and enforcement staff do not have the authority to resolve such ambiguity or concerns. Rather, such decisions must be made at a national level to ensure national consistency.

Lastly, OECA has committed to developing a single guidance document for EPA to determine appropriate levels of enforcement for noncompliance, which is intended to improve transparency and consistency for the regulated community. EPA staff are directed to continue current practices subject to the policies of the Pritzlaff Memorandum until the document is available.

De-Emphasis of Formal Enforcement and Injunctive Relief

Under the Pritzlaff Memorandum, formal enforcement (e.g., a civil administrative or judicial remedy) is appropriate only when compliance assurance or informal enforcement is inapplicable or insufficient to achieve rapid compliance, although immediate formal enforcement may be required in certain circumstances, such as when there is an emergency that presents significant harm to human health and the environment. The Pritzlaff Memorandum also clarifies that nothing changes the long-standing approach to handling Superfund enforcement with early action.

Notably, there must be a clear nexus between any relief mechanism and applicable law, meaning that the relief must be tailored to address specific violations based on clear legal requirements. Furthermore, the Pritzlaff Memorandum rescinds an April 2021 EPA memorandum² that encouraged use of expansive injunctive relief in enforcement cases. Instead, injunctive relief is appropriate only in limited circumstances by approval from the OECA Assistant

Administrator. Tools previously utilized under the 2021 memorandum, such as enhanced monitoring and reporting requirements, are not considered appropriate in most circumstances; rather, monitoring and reporting requirements are appropriate only if they are required by applicable law and directly tied to specific noncompliance. Other tools involving a third party (e.g., third-party audits) are to be used only in negotiations after approval by the OECA Assistant Administrator.

Lastly, the Pritzlaff Memorandum makes clear that any proposed settlement negotiation that could involve mitigation for nationally significant issues or stipulated remedy should go through the OECA Assistant Administrator and that no settlement can include a supplemental environmental project (SEP) until additional SEP guidance is released.

In Summary

- The EPA Office of Enforcement and Compliance Assurance issued a December 5, 2025, memorandum that establishes a “compliance first” focus for all EPA enforcement and compliance assurance staff.
- The memorandum represents an enforcement policy shift that emphasizes swift resolution and compliance, clear interpretation of the law and consistency across the agency over prolonged investigations, and a need to identify violations.
- The memorandum rescinds Biden-era guidance that encouraged the use of broad relief mechanisms such as monitoring and reporting and pauses the use of supplemental environmental projects as a component of settlement agreements.

What Does This Mean for Regulated Entities?

While the Pritzlaff Memorandum does not create any legally binding rights, the effects of will be felt by regulated entities. With this policy shift, EPA staff are encouraged to be more transparent, emphasize compliance over enforcement and resolve noncompliance as rapidly as possible. Furthermore, EPA staff will have fewer remedies available to them if enforcement is pursued.

Companies or individuals may find themselves across the table from an EPA more amenable to resolving noncompliance through enforcement alternatives, and industries grappling with inconsistent or legally unsupported interpretations of statutes and regulations may have a new escalation avenue for such issues. The single guidance document for appropriate enforcement levels, when issued by OECA, may also provide businesses with greater certainty over the interpretation of the law and consequences of noncompliance. Entities currently the subject of EPA enforcement actions may experience pauses in their cases until EPA sorts through applicability of the Pritzlaff Memorandum to their specific cases.

Notes

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1. <https://www.epa.gov/newsreleases/epa-administrator-lee-zeldin-announces-epas-powering-great-american-comeback>.
2. <https://www.epa.gov/enforcement/using-all-appropriate-injunctive-relief-tools-civil-enforcement-settlements>.